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APR - 2 2009

Office of Regulatory Policy
Food and Drug Administration
10903 New Hampshire Ave., Bldg. 51, Rm. 6222
Silver Spring, MD 20993-0002

Attention: Beverly Friedman

Dear Ms. Axelrad:

Transmitted herewith is a copy of the application for patent term extension of U.S. Patent No. 5,691,336. The application was filed on March 21, 2008, under 35 U.S.C. § 156.

The patent claims a product that was subject to regulatory review under the Federal Food, Drug and Cosmetic Act. Subject to final review, the subject patent is considered to be eligible for patent term extension. Thus, a determination by your office of the applicable regulatory review period is necessary. Accordingly, notice and a copy of the application are provided pursuant to 35 U.S.C. § 156(d)(2)(A).

Inquiries regarding this communication should be directed to the undersigned at (571) 272-7755 (telephone) or (571) 273-7755 (facsimile).

Mary C. Tilk
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

cc: J. Eric Thies
Merck & Co., Inc.
Patent Department
P.O. Box 2000
Rahway, NJ 07065-0907

RE: EMEND® for injection
Docket No. FDA-2009-E-0057